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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/381,771	10/26/1999	ERIK BROGAARD THOMSEN	CU-2007RJS	4414

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PEAVEY, ENOCH E

[REDACTED] ART UNIT

[REDACTED] PAPER NUMBER

3676

DATE MAILED: 04/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

SA

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/381,771	THOMSEN, ERIK BROGAARD	
	<b>Examiner</b>	<b>Art Unit</b>	
	Enoch E Peavey	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 January 2002.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 9-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 9-17 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 9-17 are rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility. The claimed invention relates only to the printed subject matter and does not provide any concrete utility to the invention, the invention simply constitutes text on a surface and as such does not subject matter for which a utility patent may be obtained. See State St. Bank & Trust Co. v. Signature Fin. Group, 149 F.3d 1368 (Fed. Cir. 1998).

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 9-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Fontorks, Sanity Font © 1997 Dan Redding & Blue Knot Software (Fontworks).

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Fontworks discloses an advertisement print (Sanity Font Family) being printed on a plane print carrier (the page) in which print is plane and lies in the same plane as the print carrier (page 2). The print comprises a primary figurative element (in the x-y plane of the page) depicting an advertisement in a first dimension (x) and a second dimension (y). The primary figurative element (in the x-y plane) when seen in a direction perpendicular to the plane of the print carrier constitutes an angle alpha + 90 degrees between the first dimension (x) and second dimension (y). The primary figurative element (in the x-y plane) when seen in a given oblique direction between a viewer and the print shows the first dimension (x) and the second dimension (y) as forming a plane of advertisement. The plane of advertisement is directed obliquely outwards of the plane of the print carrier (page 2, Sanity font). The advertisement print comprises a secondary figurative element (shadow relieved into the background) depicting the advertisement in a third dimension (z). The secondary element (shadow relieved into the background) when seen in a direction perpendicular to the plane print carrier constitutes an angle alpha + beta between the first dimension (x) and third dimension (z) and which secondary figurative element (shadow relieved into the background) when seen in the given oblique direction between the viewer and the print shows the third dimension as directed perpendicular to the plane of advertisement being formed by the first (x) and second dimension (y) and that the angles alpha and beta are different from 0 degrees. The print is made of curable ink cured on the plane print carrier (the dried print on the page). The print is made by printing on a carrier medium (the page).

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***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fontworks in view of Rusin, US No. 5,941,002. Fontworks discloses the claimed invention except for the print carrier being a ground surface (extending in the vertical direction). Rusin discloses a ground surface print carrier (i.e. the print carrier is located on the ground for displaying advertisement at a sporting event. It would have been obvious to one of ordinary skill in the art at the time of applicants invention to modify Fontworks with the ground surface print carrier of Russin in order to display the advertisement at a sporting event.

***Response to Arguments***

7. Applicant argues that the figurative element disclosed in the Fontworks reference will not form a plane of advertisement which is directed obliquely outward of the plane of the print carrier. Examiner disagrees, the lettering in Fontwork has the same basic construction as the lettering contained in the instant application (*i.e. the primary figurative element (in the x-y plane) when seen in a given oblique direction between a viewer and the print shows the first dimension (x) and the second dimension (y) as*

*forming a plane of advertisement. The advertisement print comprises a secondary figurative element (shadow relieved into the background) depicting the advertisement in a third dimension (z). The secondary element (shadow relieved into the background) when seen in a direction perpendicular to the plane print carrier constitutes an angle alpha + beta between the first dimension (x) and third dimension (z) and which secondary figurative element (shadow relieved into the background) when seen in the given oblique direction between the viewer and the print shows the third dimension as directed perpendicular to the plane of advertisement being formed by the first (x) and second dimension (y) and that the angles alpha and beta are different from 0 degrees).* Because the lettering has the same construction with regard to the angles between the primary, secondary and tertiary figurative elements, they will have the same effect as the advertisement of the instant application, the applicant has failed to point out any language in the claim that would make the Fontworks reference and the reference of the instant application structurally different.

**8. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Enoch E Peavey whose telephone number is 305 1977. The examiner can normally be reached on Mon-Fri 8:00 am to 4:30 am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on (703) 308- 3179. The fax phone numbers for the organization where this application or proceeding is assigned are 305 3597 for regular communications and 305 3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 1113.

Enoch E Peavey  
Art Unit 3676

April 7, 2002

  
LYNNE H. BROWNE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3620